

**Introduced by Senator Block**

February 22, 2013

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An act to amend Section 10148 of the Business and Professions Code, relating to real estate.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 676, as introduced, Block. Real estate records: unlawful destruction.

Existing law requires a licensed real estate broker to retain for 3 years copies of all listings, deposit receipts, canceled checks, trust records, and other documents executed by him or her or obtained by him or her in connection with any transactions for which a real estate broker license is required. Existing law provides that after notice, the books, accounts, and records shall be made available for examination, inspection, and copying by the commissioner or his or her designated representative during regular business hours, and shall, upon the appearance of sufficient cause, be subject to audit without further notice, except that the audit shall not be harassing in nature.

This bill would provide that any real estate broker, real estate salesperson, or any director, officer, employee, agent, or shareholder of any corporation licensed as a real estate broker, who knowingly destroys, alters, conceals, mutilates, or falsifies any of the books, papers, writings, documents, or tangible objects that are required to be maintained or that have been sought in connection with an investigation, audit, or examination of a real estate licensee by the commissioner is guilty of a misdemeanor.

By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 10148 of the Business and Professions  
2 Code is amended to read:

3 10148. (a) A licensed real estate broker shall retain for three  
4 years copies of all listings, deposit receipts, canceled checks, trust  
5 records, and other documents executed by him or her or obtained  
6 by him or her in connection with any transactions for which a real  
7 estate broker license is required. The retention period shall run  
8 from the date of the closing of the transaction or from the date of  
9 the listing if the transaction is not consummated. After notice, the  
10 books, accounts, and records shall be made available for  
11 examination, inspection, and copying by the commissioner or his  
12 or her designated representative during regular business hours;  
13 and shall, upon the appearance of sufficient cause, be subject to  
14 audit without further notice, except that the audit shall not be  
15 harassing in nature.

16 (b) The commissioner shall charge a real estate broker for the  
17 cost of any audit, if the commissioner has found, in a final desist  
18 and refrain order issued under Section 10086 or in a final decision  
19 following a disciplinary hearing held in accordance with Chapter  
20 5 (commencing with Section 11500) of Part 1 of Division 3 of  
21 Title 2 of the Government Code that the broker has violated Section  
22 10145 or a regulation or rule of the commissioner interpreting  
23 Section 10145.

24 (c) If a broker fails to pay for the cost of an audit as described  
25 in subdivision (b) within 60 days of mailing a notice of billing,  
26 the commissioner may suspend or revoke the broker's license or  
27 deny renewal of the broker's license. The suspension or denial  
28 shall remain in effect until the cost is paid or until the broker's  
29 right to renew a license has expired.

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1     (d) *The commissioner may maintain an action for the recovery*  
2 *of the cost of an audit in any court of competent jurisdiction. In*  
3 *determining the cost incurred by the commissioner for an audit,*  
4 *the commissioner may use the estimated average hourly cost for*  
5 *all persons performing audits of real estate brokers.*

6     (e) *Any real estate broker, real estate, salesperson, or any*  
7 *director, officer, employee, agent, or shareholder of any*  
8 *corporation licensed as a real estate broker, who knowingly*  
9 *destroys, alters, conceals, mutilates, or falsifies any of the books,*  
10 *papers, writings, documents, or tangible objects that are required*  
11 *to be maintained by this section or that have been sought in*  
12 *connection with an investigation, audit, or examination of a real*  
13 *estate licensee by the commissioner is guilty of a misdemeanor.*

14     SEC. 2. No reimbursement is required by this act pursuant to  
15 Section 6 of Article XIII B of the California Constitution because  
16 the only costs that may be incurred by a local agency or school  
17 district will be incurred because this act creates a new crime or  
18 infraction, eliminates a crime or infraction, or changes the penalty  
19 for a crime or infraction, within the meaning of Section 17556 of  
20 the Government Code, or changes the definition of a crime within  
21 the meaning of Section 6 of Article XIII B of the California  
22 Constitution.